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11 Attorneys For Defendant
12 AMERICAN MOTORISTS INSURANCE COMPANY

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14
15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE EASTERN DISTRICT OF CALIFORNIA

17 JOSEPH F. HARBISON, III
dba JOSEPH F. HARBISON, III
18 & ASSOCIATES,

No. 2:04-cv-2542 FCD JFM

19 Plaintiff,

STIPULATION FOR PROTECTIVE
ORDER AND ORDER

20 v.

21 AMERICAN MOTORISTS INSURANCE
22 COMPANY,

TRIAL DATE: October 27, 2009

23 Defendant.

24 _____/

25 WHEREAS plaintiff has asserted certain claims against defendant AMERICAN
26 MOTORISTS INSURANCE COMPANY alleging the Company breached the implied covenant

1 of good faith and fair dealing when it denied plaintiff's tender of defense in respect of the
2 underlying *Olsen v. Harbison* action;

3 WHEREAS the parties recognize the right of defendant to seek discovery of relevant
4 information from plaintiff in connection with said claims; and

5 WHEREAS the parties also recognize plaintiff's legitimate interest in avoiding the
6 dissemination of private, confidential information outside the litigation; and

7 WHEREAS the parties desire to allow defendant to conduct appropriate discovery and, at
8 the same time, protect plaintiff's legitimate privacy interests:

9 NOW, THEREFORE, AND IN CONSIDERATION OF THE FOREGOING, the parties
10 hereto, by and through their respective counsel, hereby stipulate and agree as follows:

11 1. Any and all answers to interrogatories served, or documents, materials or information
12 produced, either formally or informally, by plaintiff HARBISON which contain "non-public"
13 information (particularly financial and proprietary information) or constitute non-public¹
14 documents shall not be deemed matters of public record, but rather such answers, documents,
15 materials and information shall be made available only to counsel, employees of the law firms
16 that are counsel of record, court reporters engaged for depositions, those persons, if any,
17 specifically engaged for the limited purpose of making photocopies of documents, investigators,
18 consultants and/or experts for use solely for preparation or litigation in this action.

19 2. The answers, documents, materials and information referred to above, as well as the
20 information therein contained, shall not be copied, distributed, or otherwise disseminated by
21 counsel, employees of the law firms that are counsel of record, court reporters engaged for
22 depositions, those persons, if any, specifically engaged for the limited purpose of making
23 photocopies of documents, investigators, consultants and/or experts to any person or firm not

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25 ¹ For purposes of this Stipulation for Protective Order the term "non-public" shall mean
26 financial information, trade secrets or other confidential information of a proprietary nature.

1 directly involved in this action for use outside this action without a prior order of court obtained
2 either by written stipulation or upon the hearing of a noticed motion.

3 3. Employees of the law firms that are counsel of record, court reporters engaged for
4 depositions, those persons specifically engaged for the limited purpose of making photocopies of
5 documents, investigators, consultants and/or experts to whom such documents, materials or
6 information are intended to be presented shall be both advised of, and shown or given a copy of,
7 the protective order and agree to be bound by the provisions hereof.

8 4. All transcripts, depositions, exhibits, answers to interrogatories, responses to requests
9 for documents or other documents made, taken or filed with the Court during the pre-trial
10 discovery in this action, which contain or otherwise set forth confidential documents, materials or
11 information which have been provided under the terms of the protective order, shall likewise be
12 subject to the terms of the Order. Any such transcripts, depositions, exhibits, pleadings or other
13 such documents containing such non-public information which are filed with the Court shall be
14 filed in sealed envelopes or other sealed containers which shall bear the caption of the action, an
15 indication of the nature of the contents of such sealed envelope or container bearing the word
16 "CONFIDENTIAL" and a statement substantially stating that the envelope or container is not to
17 be opened nor the contents thereof to be displayed or revealed, except by express further written
18 Order of Court.

19 5. At the conclusion of the litigation against AMERICAN MOTORISTS, employees of
20 the law firms that are counsel of record, court reporters engaged for depositions, those persons, if
21 any, specifically engaged for the limited purpose of making photocopies of documents,
22 investigators, consultants and/or experts shall either return to counsel for HARBISON all original
23 documents, materials, or information (including all copies thereof) produced by HARBISON
24 which have been marked "CONFIDENTIAL", "PROPRIETARY", or "RESTRICTED
25 DOCUMENTS PER COURT ORDER," or shall provide counsel for HARBISON with a written
26 verification that all such documents have been destroyed.

1 6. HARBISON shall identify and clearly mark with the legend "CONFIDENTIAL,"
2 "PROPRIETARY," "RESTRICTED DOCUMENTS PER COURT ORDER" or similar legend
3 those answers, documents, materials or information which they deem to be non-public in nature
4 and to come within the provisions of the stipulated protective order at the time such answers,
5 documents, materials or information are furnished, subject to specific review by the Court on
6 motion by any party.

7 7. Nothing in the stipulated protective order shall prohibit the dissemination or use by
8 any person of any material, testimony or information which is used at trial and is part of the
9 record, and such material, testimony or information may be disseminated or used by any person
10 unless it is the subject of a specific protective order entered during the course of trial.

11 8. This Stipulation for Protective Order shall be subject to review by the court upon
12 application by any party upon the showing of good cause.

13 DATED: April 13, 2009.

LOMBARDI, LOPER & CONANT, LLP

15 By: /s/ Lori A. Sebransky
16 LORI SEBRANSKY
Attorneys for Plaintiff

18 MUSICK, PEELER & GARRETT, LLP

19 DATED: April 9, 2009.

21 By: /s/ Laura K. Kim
22 LAURA K. KIM
Attorneys for Defendant

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DATED: April 23, 2009.

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